

In the Matter of: )  
 )  
Application for Certification of ) Docket No.  
the Los Esteros Critical Energy ) 03-AFC-02  
Facility Phase 2 (LOS ESTEROS 2) )  
 )

SAN JOSE, CALIFORNIA 95002

7:30 p.m.

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBERS PRESENT

William J. Keese, Chairman, Presiding Member

Jackalyne Pfannenstiel, Commissioner

HEARING OFFICER, ADVISORS PRESENT

Major Williams, Hearing Officer

Rick Buckingham, Advisor to Chairman Keese

STAFF AND CONSULTANTS PRESENT

Robert Worl, Project Manager

Dick Ratliff, Senior Staff Counsel

Lance Shaw, Compliance Project Manager

Geoff Lesh

Roger Johnson

PUBLIC ADVISER

Margret J. Kim

J. Mike Monasmith, Associate

APPLICANT

Jeffery D. Harris, Attorney  
Greggory L. Wheatland, Attorney  
Ellison, Schneider and Harris, LLP  
representing Calpine Corporation

Rick Tetzloff, Project Manager  
Calpine Corporation

Steven A. DeYoung, Principal  
DeYoung Environmental Consulting

Douglas M. Davy, Senior Project Manager  
CH2MHILL

ALSO PRESENT

Tina King, representing  
James T. Beall, Jr., Supervisor Fourth District  
Board of Supervisors,  
County of Santa Clara

Lydia Tols  
Office of Mayor Ron Gonzales  
City of San Jose

Mike Mena, Project Manager  
Department of Planning, Building and Code  
Enforcement  
City of San Jose

Harry Adams representing  
Assemblywoman Sally Lieber  
22nd Assembly District

Richard P. Santos, Director, District 3  
Vice Chair, Board of Directors  
Santa Clara Valley Water District

Robert W. Gross  
Santa Clara Valley Water District Director,  
Retired  
The Union Warehouse Circa 1850  
Alviso National Historic District

William J. Garbett  
T.H.E.P.U.B.L.I.C.

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## P R O C E E D I N G S

7:30 p.m.

PRESIDING MEMBER KEESE: This is an informational hearing conducted by the California Energy Commission to look at the Los Esteros Power Plant project.

I'm Bill Keese, I'm the Chair and at the moment the only member of the two-member Siting Committee that will be studying this case. On my left is Jackie Pfannenstiel, who was sworn in as an Energy Commissioner this morning. And we decided we'd get our money's worth out of her, so we invited her to join us here, and who knows, she may turn out to serve on the Siting Committee on this case sometime down the line.

On my right is Rick Buckingham, my Advisor, who will be with us for this case. The Hearing Officer is Major Williams. And Major Williams is going to conduct most of this hearing. Major.

HEARING OFFICER WILLIAMS: Thank you, Bill. Welcome, Jackie. As the Chairman said, this is an informational hearing. The Commission's Public Adviser's Office is present in the back. And they will be making a presentation

1 later. Margret and Mike, Margret Kim and Mike  
2 Monasmith, are in the back. And if you have any  
3 questions about the process here today, those are  
4 the people that you want to talk to. So just make  
5 a note of it when they come up so you can, you  
6 know, have that in the back of your heads.

7 We have the applicant on my left. Would  
8 you like to introduce -- Mr. Wheatland, would you  
9 like to introduce the applicant.

10 MR. WHEATLAND: Thank you. Good  
11 evening, I'm Greg Wheatland, and I am the attorney  
12 for the applicant. And I would like to ask those  
13 who are seated here at the table with me to  
14 introduce themselves to you, also, at this time.

15 DR. DAVY: My name is Doug Davy and I'm  
16 a consultant to the applicant; and I'm the Project  
17 Manager for preparing the AFC.

18 MR. TETZLOFF: Rick Tetzloff; I'm with  
19 Calpine. I'm the Project Manager for the phase  
20 two development.

21 MR. DeYOUNG: I'm Steve DeYoung; also a  
22 consultant to Calpine. I'm the Environmental  
23 Manager.

24 HEARING OFFICER WILLIAMS: One thing,  
25 anybody who speaks today, would you, if you have a

1 business card, would you make sure that the court  
2 reporter gets your card so that we can get the  
3 spelling of all names correct; we won't offend  
4 anybody. But we still might do it, but it would  
5 greatly help if you get your business card to the  
6 court reporter.

7 And I see Margret in the back.  
8 Margret's holding a blue card. If you have any  
9 questions about anything that happens today it  
10 would be very helpful if you fill out a blue card;  
11 and that way we can kind of organize folks coming  
12 to the mike. The Chairman will put the cards in  
13 alphabetical order and we can kind of control  
14 things a little bit better that way. So if you  
15 have a question please fill out a blue card so  
16 we'll get you up to the mike and you can raise  
17 your question or your comment or whatever you may  
18 have to offer.

19 I'm sorry, Mr. Wheatland, complete,  
20 please.

21 MR. WHEATLAND: That completes our  
22 introductions, thank you.

23 HEARING OFFICER WILLIAMS: Okay. Thank  
24 you. Staff.

25 MR. RATLIFF: I'm Dick Ratliff, Counsel

1 for staff. And Bob Worl, the Project Manager, is  
2 with me. Roger Johnson is also here in the  
3 audience; he's the Siting Manager.

4 HEARING OFFICER WILLIAMS: Would the  
5 members of staff of the Energy Commission please  
6 stand so we can -- okay. Thank you.

7 There are presently no formal  
8 intervenors that I'm aware of at this point.  
9 Intervenors are folks who have the opportunity to  
10 sit up at the table, such as applicant and staff,  
11 and present evidence -- oh, we do have one. A  
12 request from -- we do have one here. The  
13 Committee hasn't acted on it, but I do see that we  
14 have one that's come in.

15 So, Margret will talk about the process  
16 of intervention and how you can become a party in  
17 this proceeding, and what that means.

18 Are there any governmental entities here  
19 represented by anyone? Could the folks who are  
20 with a governmental entity come forward and  
21 introduce yourself and let us know who you are.

22 MS. KING: I'm Tina King with the Santa  
23 Clara County Board of Supervisors, Office of Jim  
24 Beall.

25 HEARING OFFICER WILLIAMS: Thank you.



1 MS. TOLS: I'm Lydia Tols with the City  
2 of San Jose, Office of Mayor Ron Gonzales.

3 HEARING OFFICER WILLIAMS: Business  
4 cards, remember.

5 MR. MENA: Mike Mena, City of San Jose  
6 Planning Division.

7 MR. ADAMS: Harry Adams representing  
8 Assemblywoman Sally Lieber from the 22nd Assembly  
9 District.

10 MR. SANTOS: Richard Santos, Alviso  
11 resident, but also Director of the Santa Clara  
12 Valley Water District. This is my area.

13 HEARING OFFICER WILLIAMS: Thank you,  
14 sir. Again, if the representatives of  
15 governmental entities are going to speak or would  
16 like to speak later, I would ask you to fill out a  
17 blue card, again, so we can have an orderly  
18 presentation on that.

19 Okay, what we're going to do here today  
20 is applicant and staff will make presentations on  
21 the proposed project. After the presentations by  
22 applicant and staff the Committee will reserve a  
23 portion of the agenda today to take evidence on  
24 the question of the proposed project's impact on a  
25 legal question in Public Resources Code section

1       25552. We'll do that at the end of the day after  
2       we take the presentations from applicant and  
3       staff.

4               At this point are there any members of  
5       the public that want to come forward and introduce  
6       yourself and make a comment or -- does any member  
7       of the public have anything to say at this point?  
8       Okay.

9               I just want to note for the record that  
10       the Committee and the participants here today  
11       earlier visited the site, the Los Esteros  
12       facility. And the plant is operational. I will  
13       refer to it as Los Esteros 1, phase one. And  
14       there is a phase one component of our proceeding  
15       here today. There's actually two phases of what  
16       the applicant is requesting. So there's a phase  
17       one and there's a phase two.

18              The original project that you all saw  
19       there today I will refer to as phase one. And  
20       it's also something that we will be addressing as  
21       part of the informational hearing today. So I  
22       just don't want any confusion on that point. I  
23       hope I haven't confused you. But applicant will  
24       be presenting that in its presentation.

25              This informational hearing is the first

1 public event conducted by the Committee as part of  
2 the Energy Commission's licensing proceedings on  
3 the Los Esteros Critical Energy Facility. Notice  
4 of today's hearing was posted on the Commission's  
5 website at [www.energy.ca.gov](http://www.energy.ca.gov). and sent to all  
6 parties, adjoining landowners, interested  
7 governmental agencies and other individuals on  
8 April 16, 2004.

9 In addition, notice of today's event was  
10 published in a local newspaper of general  
11 circulation, The San Jose Mercury News, on May  
12 (sic) 26, 2004.

13 Documents pertinent to today's hearing  
14 include applicant's proposed schedule for the  
15 project filed on April 27, 2004; staff's issues  
16 identification report filed April 23, 2004; and  
17 the statutory question that I referred to earlier  
18 that relates to Public Resources Code 25552.

19 The purpose of today's hearing is to  
20 provide a public forum to discuss the proposed Los  
21 Esteros project; to describe the Energy  
22 Commission's review process; and to identify the  
23 opportunities for public participation in the  
24 process.

25 Electrical energy produced by this

1 proposed merchant power plant will be sold in  
2 California's competitive deregulated electricity  
3 market. A merchant plant is built with private  
4 funding without creating any direct financial  
5 liability for electricity consumers.

6 Applicant's plan in this single AFC  
7 proceeding is two-pronged. I mentioned that  
8 before. The first thing applicant is wanting to  
9 do is to continue to operate the Los Esteros phase  
10 one in simple cycle mode, producing 180 megawatts  
11 of electricity beyond expiration of the current  
12 license on July 2005.

13 The second thing that applicant wants to  
14 do in this AFC process is to get a license to  
15 begin construction and start operation some 19  
16 months later of the simple cycle plant as a  
17 combined cycle facility which will produce, in the  
18 end, a maximum of 320 megawatts of electricity.  
19 And applicant will get into the detail about that.

20 Today's event is the first in a series  
21 of formal hearings which will extend over the  
22 coming months. The Commissioners conducting this  
23 proceeding will eventually issue a proposed  
24 decision containing the recommendations on the  
25 proposed power plant.

1           It is important to note that by law the  
2       proposed decision must base its recommendations  
3       solely on the evidence contained in the public  
4       record. To insure that this happens and to  
5       preserve the integrity of the Commission's  
6       licensing process, the Commission regulations in  
7       the California Administrative Procedure Act  
8       expressly prohibit off-the-record contacts between  
9       the participants in this proceeding and the  
10      Commissioners, their Advisors and the Hearing  
11      Officer. This is known as the ex parte rule.

12           This means that all contacts between the  
13      parties in this proceeding and Chairman Keese, and  
14      the second Commissioner, when that Commissioner is  
15      appointed, and it very well may be Ms.  
16      Pfannenstiel, -- you can't talk to them concerning  
17      a substantive matter unless it's in the context of  
18      a public discussion, such as will occur today; or  
19      in the form of a written communication that's  
20      distributed to everybody, to all the parties. So,  
21      no ex parte contacts.

22           The purpose of this rule is to provide  
23      full disclosure to all participants of all the  
24      information which may be used as a basis for the  
25      future decision.

1           Again, as I said, today we will have  
2       presentations by the applicant and then by staff.  
3       After those presentations are concluded and any  
4       questions presented by the participants are  
5       addressed, then we will take comments.

6           During the course of the hearing we will  
7       proceed in the following manner: Applicant will  
8       describe the proposed project and explain plans  
9       for developing the project. Commission Staff will  
10      provide an overview of the Commission's licensing  
11      process and its role as an independent party.

12      Again, Commission Staff is an independent party in  
13      reviewing the project.

14           After each presentation again we will  
15      take questions or comments from interested  
16      agencies and members of the public.

17           Then the Public Adviser's Office will  
18      come forward and explain to you how to become more  
19      involved, if you desire, in the process than  
20      merely a member of the public.

21           After Ms. Kim does that, then the final  
22      thing that we'll do is we'll turn to a discussion  
23      of the project's compliance with the requirements  
24      of the expedited review process set forth in  
25      Public Resources Code section 25552.

1           With that said I think we're ready to  
2       proceed to applicant.

3           MR. WHEATLAND: All right, well, thank  
4       you. For the applicant's presentation I'll turn  
5       the microphone over to Mr. Tetzloff.

6           MR. TETZLOFF: Thank you, everybody, for  
7       coming out tonight. I appreciate you sacrificing  
8       a Tuesday night for this.

9           A format question. Are we allowed to  
10      take questions during the presentation, or do want  
11      to save that till later?

12          HEARING OFFICER WILLIAMS: Well, we  
13      don't want to interrupt your flow, so it probably  
14      would be better to do it after your presentation.

15          MR. TETZLOFF: No problem, okay. My  
16      presentation tonight is to discuss the project in  
17      general, and then talk about the aspects of  
18      relicensing for phase one, and also the new  
19      licensing for phase two, the combined cycle  
20      conversion.

21          Calpine Corporation was founded in San  
22      Jose 20 years ago. It started out as a tiny  
23      company with just a handful of employees, and now  
24      is the largest independent power company in North  
25      America. There's well over 3600 employees with

1 projects that are throughout North America,  
2 Canada, U.S. and soon to be in Mexico. And  
3 there's also one large plant in the U.K.

4 Calpine's strategy or business model is  
5 based on two different technologies. One is  
6 renewable geothermal, which is primarily the  
7 Geysers facility north of San Francisco, and  
8 natural gas. With natural gas plants and the  
9 geothermal plants we have a total of 87 plants in  
10 operation today with a total of 22,000 megawatts.

11 To give you an idea, one megawatt is the  
12 equivalent of electricity used by anywhere between  
13 750 and 1000 homes. So the phase one plant that  
14 we saw today, 180 megawatts; that's the equivalent  
15 of about 135,000 homes that it provides  
16 electricity to.

17 And the last point is critical for  
18 Calpine's success that we be a good neighbor and a  
19 responsible corporate citizen.

20 As Mr. Williams noted the facility you  
21 saw today was phase one. It's a state of the art,  
22 natural gas turbine power plant, 180 megawatts.  
23 And there are certain features of the plant that  
24 have been designed into it to allow an easy  
25 conversion in phase two to combined cycle.



1           The phase two portion that we're also  
2       seeking a license for is to convert the facility  
3       to combined cycle, which is one of the most  
4       efficient technologies available today for new  
5       plants. And it will have a total capacity of 320  
6       megawatts.

7           As we discussed, the current license  
8       expires in July of '05. I'll talk a little bit  
9       later about the reasoning for that. We're also  
10      seeking the licensing for phase two, which will be  
11      the combined cycle conversion. And that both  
12      increases the efficiency of the facility and the  
13      capacity.

14           A little history for phase one. The  
15      application was initially filed in August of 2001.  
16      And was deemed data adequate about a month later.  
17      And this was in the expedited process, which is,  
18      on paper, supposed to be a four-month process. In  
19      this case it took ten months. And that mostly  
20      speaks to the thoroughness of the environmental  
21      review that was conducted for that process.

22           It received a full environmental review  
23      just like it would if it would have not been in  
24      the expedited process.

25           That license for phase one, along with

1 the other permits that you see listed up there,  
2 were approved around the June/July of 2002  
3 timeframe. The project went immediately into  
4 construction and started its first operation in  
5 December of that year, which is a very short  
6 construction period. And joined full operation in  
7 March of '03.

8 Benefits of the project. The primary  
9 one is that it's alleviated the strain on the  
10 power grid in the south Bay Area. The Bay Area is  
11 a huge load center with very few generation  
12 resources. And so having generation close to  
13 load, and with technology that's as clean as a  
14 facility like this, it enables the transmission  
15 system to actually -- it alleviated any of the --  
16 not any, but some of the constraints that you'd  
17 normally have trying to bring power into a large  
18 population center where all the electricity usage  
19 is.

20 Actually, there's a system impact study  
21 that Pacific Gas and Electric just finished for  
22 the phase two facility. And that study is still  
23 being completed, but the preliminary results show  
24 that the addition of the 140 megawatts for phase  
25 two actually reduces, in all cases that they

1 studied, the different cases and constraints that  
2 they found in the San Jose area.

3 Another benefit of the project is that  
4 we spend somewhere roughly around \$1 million a  
5 year on local services and supplies to support  
6 phase one. And that phase one, since it was  
7 envisioned to have the eventual buildout to phase  
8 two, has a lot of the infrastructure, a lot of the  
9 pipelines, a lot of the design of the general site  
10 was designed to enable the phase two construction.

11 So when phase two does go into  
12 construction all of it, except the short  
13 transmission line that will go right to that SVP  
14 portion, all the construction is going to be  
15 within the fenceline.

16 Another benefit from the project, of  
17 course, is property tax revenue. The first column  
18 is the actual costs expected based on the  
19 assessments from '03 to '04 of phase one. The  
20 total is about \$1.5 million. That get sent to the  
21 County. And then the County distributes it  
22 according to percentages, which I broke out in  
23 that table there.

24 For phase two, if it was operational  
25 today these would be the estimated property tax

1 revenues based on that. The far right column for  
2 phase two, those costs are all in addition to the  
3 phase one. So if you look at the very bottom the  
4 total of the facility would be about \$2 million  
5 per year.

6 And, again, going back to the point of  
7 Calpine being a good neighbor and corporate  
8 citizen, the plant's only been operational for  
9 about a year and these are many of the things that  
10 we've been involved in and contributed to, thanks  
11 to the hard work of people like Richard Santos and  
12 Councilman Reed and the people that are operating  
13 the facility.

14 Some of them, you'll notice, are for the  
15 school. I mean all these areas are focused on  
16 helping the neighborhood that we operate in.

17 Need for additional power generation.  
18 Here are some quotes from a few of the public  
19 officials in the state. First one is from  
20 Governor Schwarzenegger, "If we do not act now  
21 California will face energy shortages as early as  
22 2006." I won't read them all, but the next one is  
23 from Senator Dianne Feinstein, and the last one is  
24 from Assemblyman Fabian Nunez.

25 They basically call, or giving warnings

1 that, you know, we're out of the energy crisis of  
2 2000. And a lot of projects were built as a  
3 result of that, like Los Esteros phase one. But  
4 there's been a huge drop-off in new projects being  
5 constructed. And with the economy coming back as  
6 it is, we're looking at another mismatch in supply  
7 and demand looking forward unless new generation  
8 is built.

9 And if you don't want to take the word  
10 of politicians, here's some actual facts dealing  
11 with this issue. One of the biggest issues is  
12 that there's a lot of just old generation in the  
13 state. Forty percent are 30 to 40 years old. And  
14 that's towards the end of useful life of most  
15 power plants.

16 Another issue that just happened a  
17 couple months ago in March, the Independent System  
18 Operator issued a stage one alert, which means  
19 that the amount of capacity that's available is  
20 only barely meeting the demand for that day. So  
21 the reserves, which is the amount of capacity  
22 that's available but not operating was getting too  
23 small.

24 And as a result of that stage one alert  
25 the ISO President and CEO commented that

1 California will likely face emergency power  
2 situations or stage alerts this summer, given the  
3 state's sum capacity reserves.

4 And further evidence of that just in the  
5 last week we've had two, including one yesterday,  
6 supply emergency notices. What those notices are,  
7 it's a lower level condition than a stage one  
8 alert; it's basically when the ISO tells the  
9 plants to be in hands-off condition. So when a  
10 plant would normally switch pumps on or off,  
11 they're basically asked to, if it's running don't  
12 touch anything, because we can't risk any outages.

13 As far as the phase one licensing, it  
14 was licensed under the expedited licensing  
15 provisions. And that, again, was a four-month  
16 process that took ten months. And the reason,  
17 again, for that was that the process went through  
18 a full environmental review. And these are some  
19 of the things that had to be demonstrated in order  
20 to have that license approved.

21 You had to prove that you did not have a  
22 significant adverse effect on the environment or  
23 the electrical system. You had to be equipped  
24 with the best available control technology for air  
25 emissions. You had to not be a major stationary

1 emission source under the Clean Air Act. You have  
2 to comply with all laws, ordinances, regulations  
3 and standards. And most importantly, which brings  
4 us to the recertification of phase one, you had to  
5 be recertified, converted to combined cycle  
6 operation or cease operation within three years.

7 That three-year period ends for phase  
8 one in July of 2005. What we're pursuing with  
9 this process are the first two aspects of that.  
10 We're seeking to recertify phase one to allow it  
11 to continue operating until we do the second,  
12 which is convert it to combined cycle.

13 And, again, this went through an  
14 expedited process. It's very important to realize  
15 that the phase one project was still subject to a  
16 full environmental review and the same review that  
17 it would have received if it had been filed under  
18 the typical 12-month process.

19 The facilities that you saw today, we  
20 talked about a lot of that already. But there's  
21 four aeroderivative LM6000 gas turbines. That's a  
22 modified version of the engine that you see on  
23 747s. They start quick; they're very efficient;  
24 and they're able to ramp up and down and load very  
25 quickly.

1           And the large, gray tall structures,  
2       those are empty right now. But for phase two  
3       they'll be filled with heat exchanger surface.  
4       Right now all they have in them are emissions  
5       control equipment, which helps to control NOx  
6       emissions and carbon monoxide emissions.

7           Some of the other things that are  
8       important there to note is plume abated cooling  
9       tower which we talked about at the site. Again,  
10      that's designed to eliminate the visual white  
11      vapor cloud that you see coming up out of many  
12      other towers around the area.

13          The recycled water supply line is also  
14      an important feature of this plant. And the  
15      visual screening we talked about when we first  
16      stopped along the road, that whole screening  
17      design was discussed and approved unanimously by  
18      an architectural subcommittee that was formed as a  
19      result of the phase one license. It had members  
20      from the City of Milpitas, City of San Jose, the  
21      CEC and Calpine. And the design that they came up  
22      with where the sound wall that surrounds the  
23      facility; the bermed landscaping around the  
24      outside of that wall; and also the large berm with  
25      trees that are on the southwest side.



1           And they were designed to screen the  
2       views of people that are driving along 237, which  
3       is a scenic corridor, I believe. And it will  
4       allow you to screen the view of the facility so  
5       you'd see a natural landscape, but yet not  
6       obstruct your view of the hills in the background.

7           The recycled water is a feature we're  
8       very proud of. The water pollution control plant  
9       that we drove by to get to the facility, obviously  
10      it's very close to Los Esteros. Before they had  
11      this South Bay water recycling program all  
12      their -- they collect wastewater from about nine  
13      different cities in the area, including Milpitas,  
14      Santa Clara, and San Jose.

15          All that water gets treated. And once  
16      it's suitable quality it's then discharged down  
17      the Guadalupe River into the Bay. And what they  
18      found is that water is converting the salt water  
19      marshes that are in the South Bay into fresh water  
20      marshes because of this discharge during drought  
21      periods.

22          So they started the South Bay water  
23      recycling program to try to minimize that effect.  
24      And what they do is they allow that higher quality  
25      reclaimed water, they call it recycled water, to

1 be available for use on nondrinking water uses,  
2 such as irrigating golf courses, irrigating  
3 property around commercial areas, schools. Or for  
4 use in a facility like Los Esteros.

5 All the water that we use onsite, except  
6 for some drinking water that gets trucked in for  
7 the employees, all the water that's used is the  
8 recycled water from the water pollution control  
9 facility.

10 And the water that -- we also discharge  
11 wastewater. That goes back to the treatment plant  
12 for further treatment and process.

13 The second license we're seeking is the  
14 conversion to combined cycle. That will result in  
15 an increase to 320 megawatts for the facility, all  
16 within the existing fenceline except for the one  
17 short transmission line that will just cross our  
18 northern boundary into the SVP switching station.

19 We're also working with Mike Mena and  
20 his group, the City of San Jose, on conforming the  
21 zoning for phase two. Right now the zoning is  
22 specific to phase one. The zoning stipulates that  
23 it's only for 180 megawatts. So the rezoning is  
24 to increase that to the full capacity for phase  
25 two of 320.

1           The schedule for phase two. We're  
2     planning on starting, assuming we're issued all  
3     the permits and licenses, is to start construction  
4     in 2006 with commercial operation, which is full  
5     operation of the facility, in 2008.

6           The additional equipment that we added  
7     for phase two. The large, we call them HRSG  
8     ducts, that houses the exhaust of the gas turbine,  
9     that's a big empty chamber at this point, except  
10    for the emissions controls. We would fill that  
11    with duct burners and water and steam heat  
12    exchangers that take the heat out of that exhaust  
13    and convert it to steam. And that steam energy  
14    then turns a steam turbine which generates  
15    electricity in its generator.

16          Along with that equipment we have a  
17    large cooling tower that gets added. It looks  
18    just like the one that's out there, only there  
19    will be six cells instead of one. There will be a  
20    140 megawatt steam turbine. And associated with  
21    that are the condenser pumps and circ waterlines.

22          And then we'll have, from the switchyard  
23    we'll have two lines that go to transformers that  
24    will be able to feed into the SVP switching  
25    station.

1           As far as what the -- this is a picture  
2           that was taken within the last six months, I  
3           believe. This is a view from the Zanker Road  
4           entrance ramp onto highway 237. And you can see  
5           the berm that -- we were parked on the other side  
6           of that. That berm, itself, obstructs the view  
7           somewhat. And then the trees are planted on there  
8           were designed to eventually screen off the  
9           majority of the facility. This was one of the  
10          primary views that was used to base the screening  
11          design on.

12          So, what will phase two look like? Flip  
13          back and forth to that one. This is the existing  
14          plant as it is. And then this next one is with  
15          the new phase two equipment shown.

16          The biggest thing you see there is just  
17          the six cell cooling tower. That's probably the  
18          closest to you at this point from this viewpoint.  
19          But it's about the same height as the steam  
20          turbine that'd be on the other side of that.  
21          That's, like I said, about the same height.

22          And this is -- if phase two was inserted  
23          at the site with the landscaping as it is right  
24          now. With five years of growth that would look  
25          like this. All those trees that were planted on

1 the berm, as well as surrounding the site, you can  
2 tell at this point provides pretty good screening.  
3 Just about everything except the tops of the  
4 stacks.

5 And then we also did one for what it  
6 would look like after 20 years. At that point you  
7 have full screening.

8 And that's the end of the presentation.

9 HEARING OFFICER WILLIAMS: Thank you  
10 very much. You can applaud, that's okay.

11 (Laughter.)

12 (Applause.)

13 HEARING OFFICER WILLIAMS: Thank you  
14 very much, again. Lights. We're going to proceed  
15 next with staff. Again, Energy Commission Staff  
16 is going to explain their role in this licensing  
17 process.

18 MR. WORL: We can do this with the  
19 lights on, too. People see this clearly?

20 My name is Bob Worl. I'm the Project  
21 Manager for the licensing procedure for Los  
22 Esteros. I also was fortunate enough to work on  
23 the original Los Esteros facility. So I have a  
24 little bit of familiarity, and hopefully that will  
25 be helpful as we go forward.

1           The Energy Commission, as was pointed  
2 out earlier, has responsibility to insure that the  
3 facility that's reviewed for licensure eventually  
4 is licensed if it complies with all laws,  
5 ordinances, regulations and standards. At the  
6 same time, has no negative impacts on the  
7 environment that aren't mitigated. And has no  
8 negative impacts on the electrical system.

9           And anyway, that brings us up here. The  
10 purpose here is to insure that the Commission  
11 fulfills its mission of taking licensing  
12 responsibility for power plants that are 50  
13 megawatts or larger.

14           In that process we also have control  
15 over the transmission lines, the water supply  
16 systems, natural gas pipelines, waste disposal  
17 facilities, access roads. We act as the lead  
18 state agency for California Environmental Quality  
19 Act, often known as CEQA.

20           And in order to fulfill our role, to  
21 determine if the proposal complies with the laws,  
22 ordinances, regulations and standards, often  
23 you'll hear the term LORS. We tend to sometimes  
24 forget that that acronym is not likely understood  
25 outside those involved in the process.

1           We conduct a complete engineering and  
2       environmental analysis of the application. We  
3       identify issues; evaluate alternatives in terms of  
4       sites, and also technologies. Our role is to also  
5       identify mitigation measures for impacts that are  
6       identified. And to recommend conditions of  
7       certification that assure compliance with those  
8       findings.

9           Part of the process also involves  
10      facilitating public and agency participation. We  
11      try to work very closely with regulatory agencies,  
12      cities, counties, anyone that has a direct  
13      interest, relationship or responsibility in  
14      regards to the project.

15          Generally our staff products are a  
16      preliminary staff assessment and a final staff  
17      assessment. And we make recommendations to the  
18      Committee. The Committee, represented here by  
19      Chairman Keese, actually are the decisionmakers in  
20      the process.

21          And as pointed out earlier by Major  
22      Williams, we are an independent party to the  
23      process. In other words, our evaluation is not  
24      subject to control of any other party to the  
25      process.

1           Staff works, as I said, closely with the  
2           other agencies. In this case we have the City of  
3           San Jose, Santa Clara County, Bay Area Air Quality  
4           Management District, the South Bay water recycling  
5           folks, and several others. This was not meant to  
6           be all-inclusive. This is merely representative.

7           With the state, we also pay close  
8           attention to recommendations, evaluations by the  
9           Air Resources Board, the California Department of  
10          Fish and Game. And at the federal level, the U.S.  
11          Fish and Wildlife Service, the Environmental  
12          Protection Agency, and the Army Corps of  
13          Engineers, to name just a few. All have had input  
14          into the original process, and also have the  
15          information in the application for certification  
16          currently before us to provide feedback on, as  
17          well.

18          We do our environmental analysis in  
19          approximately 19 areas, actually 20-some, some of  
20          which are combined. But rather than read them  
21          all, I think that they speak for themselves. And  
22          I see many of you already have the handout. The  
23          handout, by the way, mirrors this presentation.  
24          The only thing you're missing is the sonorous  
25          tones of my voice and whatever patter I can put in



1       between the lines. Please feel free to take one  
2       of those with you.

3               We also do -- this is an indication of  
4       the process. It indicates staff and our  
5       assessment in testimony at hearings. We take  
6       information from the applicant, from the public,  
7       from intervenors, from local, state and federal  
8       agencies. And we use that in preparing our staff  
9       assessment, both preliminary and our final staff  
10      assessment.

11             And you'll note there for both  
12      intervenors and the public there's an asterisk  
13      that refers everyone to the Public Adviser's  
14      Office, who is there to fulfill the function of  
15      insuring that there's adequate opportunity and  
16      adequate assistance in presenting points of view  
17      from both the public and from those who become  
18      formal intervenors. The process is fairly open,  
19      and we want to make sure that we hear from those  
20      who have concerns, questions or, in many  
21      instances, are just curious.

22             This one here indicates that the  
23      decisionmakers, again Chairman Keese and Jackalyne  
24      Pfannenstiel, who is here, another Commissioner,  
25      basically will work with the Hearing Office,

1 represented by Major Williams. And they will take  
2 the information from the applicant, public  
3 comment, the agencies, our comments, reports,  
4 intervenor comments and they will then come up  
5 with another document that's called a Presiding  
6 Member's Proposed Decision.

7 And again, each of these Commission  
8 documents, whether it's by staff or by the  
9 Committee, in this instance, also have a hearing,  
10 so that there's public airing of the documents,  
11 public opportunity to participate in reviewing  
12 those documents.

13 And the proposed decision is a  
14 preliminary document that presents the findings of  
15 the Committee in this instance, and would be their  
16 recommendation to the full Commission for making a  
17 decision. And the final decision also in that box  
18 is a function of the five Commissioners who form  
19 the full Energy Commission. And they are the  
20 final arbiter of what the result is.

21 Again, the public process is very open.  
22 We'll have, throughout this process, workshops  
23 which are less formal, but are noticed. And are  
24 an opportunity to discuss each of the technical  
25 areas, and what our staff have found and provided

1 in their analysis. And we'll, through  
2 discussions, be moving into a preliminary and a  
3 final staff assessment.

4 Hearings are basically a more formal  
5 function. Those are chaired, again, by the  
6 Hearing Office, Major Williams; and have  
7 representation of the Committee, be one of the two  
8 Commissioners assigned to the case. And the  
9 hearings are basically a formal means of providing  
10 an opportunity for airing differences and  
11 attempting to come to resolution of those things  
12 that may be still out there.

13 Again, our documents, we've made  
14 available through a number of sources. They're  
15 available on our website, but we've also provided  
16 copies to public libraries in Alviso and San Jose,  
17 as well as a number of universities and large  
18 cities. Also available in the Energy Commission  
19 Library in Sacramento. And, again, our website is  
20 up there, and all the documents, as they're  
21 prepared, will be available on the website.

22 And I might also note, because we are in  
23 phase one, looking again at the original Los  
24 Esteros process, we've asked that the Commission  
25 website also provide the original documents from

1 the Los Esteros for access. So those are back up  
2 if anybody's tried to find them. Until recently  
3 they were not available, other than the Commission  
4 decision. But now the hearings and the staff  
5 documents are back up there for people, should  
6 they be interested.

7 You can participate, and again this is a  
8 function of the Public Adviser's Office, but we  
9 generally include this in our presentation.  
10 Anyone can submit written comments or statements  
11 to the Commission. We encourage that. You can  
12 provide oral comments at public meetings such as  
13 this one; or at workshops. Workshops are also  
14 noticed, and though they're less formal you're  
15 certainly entitled to attend and participate  
16 there, as well.

17 And if you're interested in becoming a  
18 formal intervenor, having a seat at the table,  
19 being able to cross-examine witnesses, present  
20 testimony, et cetera, then if you have questions  
21 about that process, please contact Ms. Kim, who's  
22 here, and who's also accessible via the 800 phone  
23 number that I'm sure she'll provide you later.

24 Also, anyone can provide written  
25 comments on the preliminary and final staff

1 assessments. And also on the Presiding Member's  
2 Proposed Decision. And bear in mind that the  
3 preliminary and final staff assessments are staff  
4 documents, and the Presiding Member's Proposed  
5 Decision is essentially a Commission or a  
6 Committee document.

7 So, as was mentioned earlier by Major,  
8 the staff, preparing the preliminary and final  
9 staff assessments, are an independent party. And  
10 the Presiding Member's Proposed Decision, again,  
11 is a decisionmakers' document.

12 I've provided some contact information.  
13 You can -- I hope that that's accurate. Anybody  
14 whose name I put up there with inappropriate  
15 information please feel free to correct it. But  
16 the intent was to provide you something in the  
17 handout that would allow you, at a later point in  
18 time, to be able to access the various parties to  
19 this process, and to get answers to questions or  
20 be able to be put in touch with people who might  
21 be able to answer your questions.

22 I don't know whether you want to move on  
23 to the issues at this time, Major, or whether you  
24 want to wait. We just have a few that I thought  
25 maybe we could save that for a later part of the

1 process here, or we could just go on.

2 HEARING OFFICER WILLIAMS: Margret, do  
3 you want to give your presentation first?

4 MS. KIM: Yeah, I'll be very brief.  
5 (inaudible).

6 HEARING OFFICER WILLIAMS: Yeah, let's -  
7 -

8 MR. WORL: Yeah, that's what I thought.  
9 I don't mind. That's why --

10 HEARING OFFICER WILLIAMS: I think it  
11 would be -- normally we take questions between  
12 each presentation. We haven't done that. So I  
13 take it nobody has a burning question. But I  
14 promise I'll take all questions after Ms. Kim's  
15 presentation. That way she may say something that  
16 may answer a question, or she may say something  
17 that may raise another question.

18 So, we'll take public comment after the  
19 presentation by our Public Adviser's Office.

20 MS. KIM: Good evening. My name is  
21 Margret Kim and I am the Energy Commission's  
22 Public Adviser. We have a couple of handouts over  
23 there and Mike Monasmith, who is our Association  
24 Public Adviser, on Q&A, then acronyms.

25 I know it's getting late so I'm going to

1 be very brief. What I'm about to tell you is  
2 probably one of the most important things for you  
3 to remember. I'd like to see a show of hands, how  
4 many of you have participated in the process  
5 before? Wonderful.

6 I'm going to talk about two things. One  
7 is what I do. What is the Public Adviser, and  
8 what does she do? And the second part is how you  
9 can participate.

10 I'm an attorney appointed by the  
11 Governor to advise both the Commission, as well as  
12 the public, on public participation. It's my job  
13 to provide opportunity for you to meaningfully  
14 participate.

15 The definition of the public is rather  
16 broad. It includes not only individuals, but  
17 organizations, companies, agencies. So while I  
18 cannot represent you as your lawyer on any  
19 substantive issues, I can render independent  
20 advice and advocate points of procedures. So I  
21 am, nonetheless, an advocate for process.

22 What that means is I will provide you  
23 with legal guidance so your voice can be heard.  
24 You may be wondering why the Commission is so  
25 interested in getting public input, and it's

1       rather simple. That first, you have the right to  
2       participate; second, the Commission will make a  
3       better decision because they'll be better  
4       informed.

5               Moving on to how you can participate.  
6       You may be wondering would it really make any  
7       difference whether I participate. Can I really  
8       influence the decision. And the answer is yes.  
9       There are two ways. One, you can just provide  
10      public comments; as mentioned earlier, you'll be  
11      invited. We'll provide you with notice so you'll  
12      know to come.

13             You can provide written comments or oral  
14      comments. When you provide written comments it  
15      will be docketed and be made part of the  
16      administrative record. If you show up at any  
17      hearings, the Hearing Officer may accept your  
18      comments and it will be made part of the hearing  
19      record.

20             What that means is the public comment  
21      that you provide will support or explain the  
22      decision that the Commission will ultimately make.

23             Now that's different from participating  
24      as an intervenor. As an intervenor, you will be  
25      made a party. And it comes with certain rights



1 and obligations. You have a right to offer  
2 testimony and exhibits, and that will be taken  
3 under oath. You have the right to file petitions,  
4 motions, briefs. And when the Commission makes  
5 its decision it has to rely on such evidence.

6 But it also comes with obligations and  
7 duties. You will have to respond to certain data  
8 requests. You will be subject to cross-  
9 examination. And you will have to comply with  
10 certain filing and service requirements. Which  
11 means you have to provide copies to other parties.

12 Of course, you can always petition  
13 financial hardship and if that status is granted,  
14 then the Public Adviser's Office, together with  
15 staff, will assist in the proof of service and  
16 providing the copies.

17 So you may ask yourself how can I  
18 intervene if you are interested. We have a copy,  
19 and Mike has a set there you can take a look at.  
20 It's a sample of how to intervene. But you may  
21 not wish to intervene, and that's perfectly fine.  
22 You can always provide your public comments.

23 And that's basically what I have. But  
24 through the process you can always call us, email  
25 us, and I'll be there. And if you intend to

1 intervene but you want assistance, we will provide  
2 a separate workshop just on the legal procedure.

3 Thank you.

4 HEARING OFFICER WILLIAMS: Thank you,  
5 Margret. Is there anyone who wants to come  
6 forward right now? Any public comment at this  
7 point? Because where we're going to go now is  
8 we're going to have staff finish talking about the  
9 schedule, or what staff is recommending -- just  
10 taking some blue cards. So we do have some folks  
11 that want to comment.

12 PRESIDING MEMBER KEESE: I'll suggest  
13 that staff -- the shorthand for what you've heard  
14 is that staff does represent the public, also. So  
15 I think it would be good at this time for the  
16 staff to point out what they think the issues are.  
17 And then the members of the public who wish to  
18 comment can either add to that list, or reiterate  
19 the points that you've made.

20 MR. WORL: Certainly, and we're prepared  
21 to be pretty brief. And, again, I include this in  
22 our handout, as well.

23 The staff issue identification report,  
24 which is also on the back table, is primarily  
25 oriented to inform participants of potential

1 issues; provides an early focus for the applicant,  
2 for the public, and for the Committee, and for  
3 staff, itself, to see the range of issues or  
4 potential issues that may be before the  
5 proceeding.

6 The criteria for identifying something  
7 as an actual issue are that it has impacts that  
8 may be difficult to mitigate or to essentially to  
9 reduce. That it's a noncompliance with laws,  
10 ordinances, regulations or standards. It's  
11 potentially contentious, something that causes  
12 argumentation about how to proceed or how to  
13 resolve the issue, or how to deal with the  
14 regulation.

15 And issues unresolved and could have  
16 impact on the schedule for continuing the  
17 proceeding and reaching conclusion is another way  
18 to identify an issue that gets raised at this  
19 point.

20 Again, I just wanted to reiterate what  
21 we're talking about here. The Los Esteros  
22 Critical Energy Facility 2, which is this  
23 particular proceeding, proposes two phases to be  
24 considered.

25 The first phase is the recertification

1 of the simple cycle license for the 180 megawatt  
2 Los Esteros Critical Energy Facility that's  
3 currently operating. And the second phase is a  
4 license for modification and operation of the Los  
5 Esteros Critical Energy Facility as a combined  
6 cycle facility. And that's been explained by the  
7 applicant, as well. Adding cooling towers, steam  
8 generator, and associated equipment, and  
9 increasing the output to 320 megawatts.

10 The potential issues that we've  
11 identified, and I'll go through them real quickly  
12 here. In air quality for phase one, there's a  
13 proposed rise in particulate matter 10 microns or  
14 smaller emissions, we call PM10. And they may not  
15 -- our air quality staff, in reviewing it, say  
16 that they may not be sufficiently offset. And,  
17 again, that is an early supposition. It's not a  
18 declaration of fact by any means, but it's  
19 something that's based on the initial review of  
20 the project. And is also indicated and followed  
21 up with data requests from the Commission Staff to  
22 the applicant.

23 For phase two air quality, again the  
24 proposed PM10 emission limits may not be  
25 sufficient offset. And the proposed nitrogen

1 oxide best available control technology may not  
2 meet the standards, or the original BAAQMD  
3 licensing criteria.

4 Biological resources. One of the issues  
5 that is before us is the need or the potential  
6 need for consultation with the U.S. Fish and  
7 Wildlife Service regarding nitrogen deposition and  
8 the potential impact on serpentine soils, and the  
9 follow-on impacts to Bay checkerspot butterfly,  
10 which are an endangered species.

11 We have under land use, the City of San  
12 Jose must rezone the site for the changes in the  
13 phase two combined cycle project. And we  
14 identified that because it's one of those things  
15 that can impact the schedule, depending on how the  
16 City of San Jose proposes to proceed with that.

17 And visual resources, phase two may have  
18 the potential to produce steam plumes from the  
19 stacks, not just from the cooling towers. And the  
20 City of San Jose has a zero plume policy. And so  
21 we've identified that as something that needs to  
22 be discussed.

23 And for water resources, for phase one  
24 actual recycled water use and wastewater return to  
25 the water pollution control plant can be evaluated

1 for perhaps more efficient environmental use. And  
2 for phase two, water use and returns will increase  
3 significantly, use a lot more water, more than  
4 double, I think. And will be evaluated for  
5 consistency with Energy Commission's policy. We  
6 call it zero liquid discharge policy.

7 And I think that that pretty much is it.  
8 Now we've moved on to our proposed schedule. And  
9 this differs somewhat from the applicant's  
10 proposed schedule, both of which, again, are  
11 included in our presentation and also in the  
12 applicant's, their version of it, as well.

13 But as you can see here, we have a fine  
14 line that shows approximately -- well, we haven't  
15 gone all the way to the Committee and the  
16 Commission's part of this. We've stopped here  
17 short and dealt solely with the staff's  
18 responsibilities and the things that are directly  
19 within the staff's control.

20 Again, we start with the AFC being  
21 deemed adequate at the business meeting March  
22 17th. We're currently at the informational  
23 hearing and site visit, which is May 4th. There's  
24 May 18th, we have a possibility of holding our  
25 first issue resolution workshop.

1           And moving on, we have, if needed, a  
2           second round of data requests, and the potential  
3           of additional workshops. We have a timeline where  
4           we expect the local, state and federal agencies'  
5           draft determinations so they give us a preliminary  
6           determination of their requirements, their  
7           permits.

8           And then we will prepare a preliminary  
9           staff assessment. File that. We'll have a  
10          workshop on that. We then expect that the local  
11          and state agencies would make their final  
12          determinations. Probably the key one here would  
13          be the Bay Area Air Quality Management District  
14          and a document that they call a final  
15          determination of compliance, which sets out the  
16          air quality requirements for operation.

17          And we would then prepare a final staff  
18          assessment. Again there would be additional  
19          opportunity to provide input at that time. The  
20          Committee and the Hearing Office take over, and  
21          again, working on a Presiding Member's Proposed  
22          Decision. And going on forward to holding formal  
23          hearings with formal presentation of evidence;  
24          cross-examination of witnesses of the various  
25          parties; and the preparation of a final Commission

1 decision that would be voted on by the five  
2 members of the Commission.

3 Anyway, that's pretty much it.

4 PRESIDING MEMBER KEESE: All right, why  
5 don't we ask members of the public to comment.  
6 Mr. Gross, do you wish to say anything at this  
7 time?

8 DR. GROSS: Mr. Chairman, Members of the  
9 Commission, Bob Gross. I have just a few comments  
10 to make here.

11 First, when Calpine came to this  
12 community they came here to try and be a good  
13 neighbor. They held meetings here with the  
14 community, a number of them are here tonight. And  
15 one of the things that we raised were several  
16 questions. One was air quality. And there was  
17 mention of a diesel, using diesel generators. We  
18 said absolutely not. They changed 180 degrees  
19 overnight.

20 The other thing is we talk about size.  
21 And I said, don't go in with a small plant. If  
22 you're going to build it, do it right. And,  
23 again, they went ahead in that direction.

24 I feel very pleased. I was a member of  
25 that architectural committee that helped landscape



1       that program over there. As you can note, down  
2       the road it's going to look like a forest out  
3       there.

4               And believe me, Calpine -- in fact, I  
5       argued with a number of the members on the  
6       Commission. I said, you know, this is private  
7       industry; this isn't government. You just can't  
8       keep spending and spending. But Calpine went out  
9       of their way, and bought many plants, a lot larger  
10      than they normally would have for their  
11      landscaping program. They were very cooperative  
12      in that direction. And I says, you can see you're  
13      going to have not only a natural look, but it's  
14      going to be a real excellent visual screen.

15             And the last point, as a 30-year veteran  
16      in the water industry I was involved in the South  
17      Bay recycling, I was one of the founders of that.  
18      I was State Chairman for the water recycling. And  
19      I'm so pleased to see purple pipes everywhere out  
20      there. Because, you know, we live in a desert.  
21      And Calpine stepped forward, and I said you can't  
22      use that much water. They said let's use  
23      recycled.

24             So today the City of San Jose, along  
25      with the other agencies, are really pleased that

1 Calpine stepped forward and said we're going to  
2 use that water. So I think environmentally  
3 addressed it.

4 And I'm also pleased that Dick Santos  
5 now, he took my place on the Water Board. He's  
6 also picking up this. And I just want to say  
7 this. Calpine has been a good neighbor. We've  
8 argued with them. We've fought with them. But in  
9 the end I think we still remain friends. We  
10 expected more out of them, and they stepped to the  
11 plate each time. And I just wanted to compliment  
12 them.

13 Thank you, Mr. Chairman.

14 PRESIDING MEMBER KEESE: Thank you.  
15 Since you introduced Mr. Santos, Mr. Santos.

16 DR. GROSS: By the way, this isn't  
17 nepotism.

18 (Laughter.)

19 MR. SANTOS: Richard Santos, Alviso  
20 resident and Director of Santa Clara Valley Water  
21 District. Always a hard act to follow Bob. I've  
22 been doing it for over 20 years.

23 But I wear two hats and one of the  
24 agencies that you did leave out was Santa Clara  
25 Valley Water District. We worked very closely

1 with Calpine, restrictions, permits and I can go  
2 on about water runoff and so on. So we worked  
3 really closely with them and we continue to do.

4 The other issues on environment dear to  
5 me was the recycling. Bob, before me, I took over  
6 the committee on recycling. And I'm just pleased  
7 as heck any time you use millions of gallons for  
8 recycling water. That was poured into the  
9 Guadalupe, it was 123 million gallons a day that's  
10 helping to destroy our river. When I think of  
11 these millions of gallons of recycling, it's that  
12 much less. So we applaud Calpine for going from  
13 180 to 320 megawatts.

14 We have no problem. They have been good  
15 neighbors from the day they got here to the  
16 present. And it's been a very good relationship.  
17 As a very active person here in Alviso socially  
18 and politically, we have an incentive program, I  
19 helped fund the library, I have my -- here. We  
20 have many many volunteers, and Calpine's been good  
21 neighbors. They helped us with providing  
22 scholarships, incentive program out here in Alviso  
23 where we have 1500 children; gift, free books,  
24 pictures of Santa Claus, and families that low  
25 income children cannot afford to go to Macy's and

1 get these things. Calpine did it. Calpine has  
2 been there for us.

3 They attend our meetings once a month,  
4 and we solicit for the first six months of every  
5 year to keep that program running. So it's paying  
6 off.

7 You know, I know we also talk about tax  
8 revenues. Yeah, I'm excited. Special districts.  
9 Talk about \$78,000. That's what keeps us going.  
10 We do a lot of environmental work and flood  
11 protection. So that money is very valuable.

12 And, of course, for flood protection  
13 also. They came to our meetings when we were  
14 fighting for this -- extension and we're still  
15 working on it. Calpine wrote letters, attended  
16 our meetings, and was good neighbors and support.  
17 We appreciate that.

18 One other thing that you may not know  
19 was my grandfather was the first non-Asian laborer  
20 in Alviso. Portuguese laborer. Back in 1916. So  
21 when Calpine first came here they were asking what  
22 can we do for the community and so on. And they  
23 did various things. But one thing they did, we're  
24 going to be having a big event out here. They  
25 named their frontage road Thomas Fu Chu

1 (phonetic). And that'll provide, the rest of our  
2 lives, the legacy of Thomas Fu Chu who brought my  
3 family here as laborers. He ran this camp. And  
4 there is no documentation out here for Chinese  
5 history. We'll keep that forever. His family, we  
6 still get together today, 30 members of the  
7 family. So it's a big deal for Alviso, and the  
8 community can preserve that Chinese history that's  
9 been forgotten. And I thank Calpine.

10 Again, when you take a look at that and  
11 you take a \$5 billion investment to help solve the  
12 energy crisis in California, I think that's  
13 marvelous. And I support phase one and two. And  
14 I support the expansion. I think they're very  
15 good for our community.

16 Thank you.

17 PRESIDING MEMBER KEESE: Thank you very  
18 much.

19 HEARING OFFICER WILLIAMS: Mr. Santos, I  
20 have a question for you. I don't know if you know  
21 it or not, but it just occurred to me when you're  
22 driving by that water treatment facility, that  
23 it's a huge facility. How big is it in relation  
24 to other such facilities in the country, do you  
25 know?

1 MR. SANTOS: Well, you know, it's a tri-  
2 party, so it's huge, yes. But we're partners in  
3 that along with Milpitas and Santa Clara, I can go  
4 on and on. Try to get this recycling issue. This  
5 is the biggest issue going on. And everybody  
6 stepped up to the plate.

7 We're trying to reduce the 123 million  
8 gallons daily going in that Guadalupe. But, yeah,  
9 the plant is huge compared to anywhere else. But  
10 we're making great strides, and we've been, you  
11 know, Bob before me 20 years invested; and I've  
12 been on it four, going on my second term.

13 And we're here to preserve this  
14 community. I don't know if you know about the  
15 history here, but we get flooded tremendously  
16 throughout the years. And now we're trying to  
17 make headway to prevent that. With these kind of  
18 partners I believe we're going to succeed.

19 HEARING OFFICER WILLIAMS: Thank you.

20 MR. SANTOS: So, thank you for your  
21 time.

22 PRESIDING MEMBER KEESE: Thank you. Mr.  
23 Garbett, nice to see you back, again.

24 HEARING OFFICER WILLIAMS: Just for  
25 those folks in the audience who don't know,

1 Mr. Garbett participated as an intervenor in the  
2 phase one process.

3 MR. GARBETT: Yes, I'm William J.  
4 Garbett and I was with an environmental group  
5 called T.H.E.P.U.B.L.I.C. And we're waiting for  
6 the corporation's statements to renew our  
7 registration. We've been sitting there for a long  
8 time now. The state is not quite as fast on the  
9 mail response as they used to be. We may be an  
10 intervenor once again.

11 We had many pointed conversations in the  
12 past, and there were many issues. And the plant  
13 out there is testimony that actually a good  
14 product has resulted. And the construction that  
15 was already in place anticipating the expansion  
16 and the upgrading of the plant is well appreciated  
17 and very good economy and far-sighted thinking.

18 We do have a couple of issues, though, a  
19 number of them along the way. So I'll throw  
20 everything out on the pile here at the very  
21 beginning so we know where we're going. One of  
22 the issues is what has been the generation  
23 capability of the plant? How much power? How  
24 many hours of actual power generation level has  
25 been introduced, as opposed to how many hours the

1 state has paid from the Department of Water and  
2 Power for standby usage? What is the utilization  
3 factor with that?

4 We go and look at what did the taxpayer  
5 truly get for their money, because the taxpayers  
6 aren't subsidizing this, not necessarily, the  
7 private market buying electricity.

8 We'd like to go and see in this process  
9 here, in phase two, a de novo review of phase one  
10 and two. Basically any party will probably  
11 stipulate that most of the stuff in place has  
12 already been good work product. And so we don't  
13 anticipate any surprises, but there are some rough  
14 edges because this was an expedited procedure  
15 under the Commission rules in the past. So  
16 therefore we can just clean up a few minor things  
17 that continue to nag.

18 The ownership of the plant has always  
19 been one in dispute. Is there going to be a  
20 change as of tomorrow? Is there an LLC going to  
21 be in? What is going to be the responsibilities  
22 of ultimate cleanup and other things? So the true  
23 parties, as far as the applicant, we need to know  
24 that for a very good reason.

25 There have been some violations in the



1 construction of the plant. There was request for  
2 different power routing in and out of the plant.  
3 There has been violations on that. And if you can  
4 go and throw a four-inch duct down for  
5 fiberoptics, why can't it be for the conductors  
6 going between the plant and the substations?

7 In the future you're talking about 230  
8 kV service out of the plant. In the past the  
9 community wanted no more than 115 kV limit the  
10 ultimate potential of the plant. And if you do,  
11 for some reason, do go to 230 kV, I hope you  
12 recycle the 120 kV transformers to other assets  
13 that Calpine owns where they'll be better used and  
14 actually get the highest efficiency with the  
15 correct voltage that we go to. That's problematic  
16 because we're still going to look at 125 kV and  
17 Silicon Valley Power not being in the issue.

18 With the plant, itself, the appearance  
19 of it, we wonder why the color change of the  
20 cooling tower from the rest of the plant, and that  
21 distinguishing feature on the architecture there.

22 We don't see why you can't use potable  
23 water brought in by a pipeline from the City for  
24 drinking water on the premises or other purposes.  
25 We don't believe everything has to be, you know,

1 Alhambra or another type of water brought in in  
2 vast quantities.

3 One issue of emissions that we didn't  
4 address before was the engines for the gas  
5 compressors. So that might be one of those  
6 things.

7 As far as the air quality issues, if you  
8 put in more units we expect more PM10. What's the  
9 problem with that? Well, really, the plant is  
10 fairly clean on PM10 emissions by and large. The  
11 Commissioners, in the instance of Metcalf, when  
12 the PM10 became a little bit problematic, just  
13 added extra stages of catalyst, which was very far  
14 reaching.

15 However, I hope they look at perhaps  
16 another alternative, and perhaps address PM2.5,  
17 using the electrostatic precipitation to catch  
18 both of them. And that might be an alternative  
19 that you may want to look at, because, in fact,  
20 the PM2.5 emissions are the major portion of the  
21 emissions from these plants.

22 The particular water problem with  
23 recycled water and other such things could be  
24 addressed with dry cooling. With dry cooling the  
25 architectural impacts and other things wouldn't be

1       there. And the hazards of recycled water are ever  
2       present. The amount of asthma and other  
3       bronchial-type illnesses are ever present.  
4       Cooling towers are used for the perpetration of  
5       germ warfare. The sewage plant nearby is relining  
6       their digesters just for extra ingredients in the  
7       future here.

8               And we worry about the use of recycled  
9       water being spit into the air where it actually  
10      can be lodged in your lungs, the most sensitive  
11      area for infections. Has it made a difference?  
12      Well, my daughter works on one side of the plant,  
13      lives on another. She's packed up her bags and  
14      left the state, or is in the process. So it's  
15      affected me family-wise, because my daughter's  
16      been around me all my life, among other things.  
17      And there are other people doing the same thing.

18             So, look to the recycled water as being  
19      one of those issues that needs to be taken care  
20      of.

21             And as before, Calpine, we're looking  
22      for you to being in the neighborhood at a bigger  
23      capacity, because the Commission has never turned  
24      down any petition in the past for a power plant by  
25      and large. They all generally get on through, and

1 we figure you'll do well on this one.

2 Thank you.

3 HEARING OFFICER WILLIAMS: Thank you,  
4 Mr. Garbett. Rather than have applicant address  
5 some of the points you raised, because of the  
6 lateness of the hour I think, you know, you can  
7 raise those through the workshops and what-have-  
8 you that will be coming up, whether or not you  
9 decide to intervene in the process.

10 So, we won't address those directly  
11 tonight. But we expect that you will present  
12 those to Calpine in the appropriate forum.

13 PRESIDING MEMBER KEESE: And I think  
14 most of the staff of Calpine have heard your  
15 comments tonight. I would imagine they'll have  
16 responses for you.

17 Mr. Enrique Aldana.

18 I will just recite his question and  
19 that's probably why he wrote his question out.  
20 "There were promises made of hiring local  
21 residents from Alviso. Has the hiring procedure  
22 been implemented?"

23 Is that an easy enough question to  
24 answer?

25 It sounded to me, from one of our

1 earlier witnesses, like there had. There were  
2 people from Alviso working on this project. Okay.  
3 Take that one to the workshop, too, please.

4 That's the end of the written comments  
5 we have here. Anybody else dying to ask a  
6 question?

7 I do have one question, Mr. Worl. Zero  
8 liquid --

9 MR. WORL: ZLD.

10 PRESIDING MEMBER KEESE: What we were  
11 talking about, as I understood it, was taking the  
12 water out of the plant and back into the sewage  
13 treatment plant.

14 MR. WORL: That's what --

15 PRESIDING MEMBER KEESE: Is that  
16 considered zero?

17 MR. WORL: I think they're --

18 PRESIDING MEMBER KEESE: You're going to  
19 look at the aspects of that, or --

20 MR. WORL: Yeah. The Commission's  
21 policy is to, in the recent IEPR, was to look at  
22 utilizing the water through several cycles of  
23 concentration onsite, and then essentially using  
24 it to the point that adding to it as needed, but  
25 basically through filtration, insuring that

1       there's none or near none going back to the water  
2       pollution control plant.

3               Right now I believe, I'm not sure, I  
4       think that it's indicated that you're getting two,  
5       sometimes three cycles of concentration out of the  
6       recycled water at this time. And the original  
7       evaluation we were looking at reusing the water as  
8       many as four to six times.

9               So it's just basically looking at a  
10       means of reducing the amount of total water with  
11       high concentrations of total dissolved solids,  
12       going back to the water pollution control plant,  
13       and potentially causing problems for them in terms  
14       of what they discharge to the Bay.

15              And it's a question for evaluation; it's  
16       not a demand for action, so to speak, as yet.

17              PRESIDING MEMBER KEESE: Thank you.

18              HEARING OFFICER WILLIAMS: Any  
19       questions? Okay. So, applicant, do you have  
20       anything further?

21              MR. WHEATLAND: We don't have an answer  
22       for you in terms of the hiring practices during  
23       the construction phase of the project. But we  
24       will look into that and provide an answer to that  
25       question.

1 HEARING OFFICER WILLIAMS: Anything  
2 further that you want to address that we haven't  
3 had the opportunity to address --

4 MR. WHEATLAND: Are we moving now to the  
5 discussion of the schedule?

6 HEARING OFFICER WILLIAMS: Excuse me?

7 MR. WHEATLAND: We have some comments on  
8 the schedule at the appropriate time.

9 HEARING OFFICER WILLIAMS: Well, now is  
10 the appropriate time.

11 MR. WHEATLAND: Well, we tendered to the  
12 Committee a suggestion for several schedules. One  
13 schedule would use the model of a single staff  
14 assessment. In the Russell City Energy Center  
15 proceeding we had what we felt a very successful  
16 experience using a single staff assessment.

17 That was a proceeding, you may recall,  
18 where the number of issues were relatively few  
19 that were contested. As in this case, we also  
20 have very few serious issues that are identified  
21 by the staff as potential issues.

22 And in Russell City we found that we  
23 were able to proceed with a single staff  
24 assessment rather than producing two full  
25 documents, both the PSA and an FSA.

1           And in this case, too, we really have  
2           already a form of an FSA because we have the FSA  
3           that was done for the Los Esteros facility as it  
4           was originally licensed. So we think there's a  
5           good building block of basic information that has  
6           already thoroughly analyzed many aspects of the  
7           plant as it currently exists.

8           And we would encourage the Commission to  
9           look at the opportunity of using just a single  
10          staff assessment in this particular proceeding.

11          We agree with the staff that this  
12          facility requires a very thorough and careful  
13          review of all of the issues involving both the  
14          relicensing and the combined cycle. But we would  
15          respectfully submit we don't believe that the  
16          facility requires a one-year review. Under the  
17          Commission's standard licensing procedure,  
18          typically it takes a year to look at a new  
19          facility, for example a 1000 megawatt plant that  
20          would be constructed on a greenfield.

21          But here we're talking about a small  
22          incremental addition to an existing facility  
23          primarily within the fenceline of that facility.  
24          And so we'd like to encourage the Committee to  
25          develop a schedule that would provide a more



1       timely consideration of that particular scale of  
2       project.

3               In addition, we would encourage you to  
4       consider a possible expedited consideration of the  
5       question about the extension of the facility and  
6       its life. We will be trying to consider this  
7       facility for RMR contracts for next year. And if  
8       it is possible for the Commission to arrive at a  
9       final decision with respect to the extension of  
10      the facility beyond June 30th of 2005, it will  
11      vastly simplify our ability to have this facility  
12      considered for that type of generation next year.

13              HEARING OFFICER WILLIAMS: For the sake  
14      of the court reporter, could you spell out the  
15      acronym that you used?

16              MR. WHEATLAND: Sometimes I can speak in  
17      sentences and just use acronyms and never say a  
18      real word.

19              (Laughter.)

20              MR. WHEATLAND: Which one did I --

21              HEARING OFFICER WILLIAMS: R --

22              MR. WHEATLAND: Oh, that's RMR, it's a  
23      term of regulatory must run, I believe is what it  
24      is referred to. And it's a -- reliability must  
25      run?

1 UNIDENTIFIED SPEAKER: Reliability must  
2 run.

3 MR. WHEATLAND: Reliability must run.  
4 And in that instance it would be a contract that  
5 we would enter into for the sale of power. And so  
6 you'll see from the schedules that we've tendered  
7 to the Committee we proposed a final decision date  
8 of December 1st of this year, both for a schedule  
9 which would use a single staff assessment or for a  
10 schedule that would use a PSA and FSA.

11 The other thing I'd like to emphasize  
12 with respect to the schedule is that the applicant  
13 will do everything it possibly can to meet any  
14 time requirements, both in terms of data  
15 responses, participation in workshops, briefing or  
16 presentation of witnesses in evidentiary hearings  
17 that would help meet this schedule.

18 And finally, we'd really encourage you  
19 to look carefully at the date that you set for the  
20 local agencies to make their recommendations to  
21 you. Work expansile is to fill time available for  
22 its completion. And so whatever time you set for  
23 the local agencies to comment to you in terms of  
24 their recommendations, we can assure you they will  
25 take all of that time.

1           But as the Auditor General has suggested  
2           to the Commission, that's an area where the  
3           Commission can take advantage of maybe setting a  
4           more aggressive schedule in terms of how the local  
5           agencies will make their recommendations to you.

6           We have a strong assurance from the Bay  
7           Area District of its cooperation in making its  
8           recommendations. And we'd encourage you to set an  
9           ambitious schedule in terms of their comments to  
10          you in this proceeding.

11          Those are our comments. Thank you very  
12          much.

13          HEARING OFFICER WILLIAMS: Staff, do you  
14          have a response?

15          MR. RATLIFF: Mr. Worl does, and then I  
16          have a couple comments to make, as well.

17          HEARING OFFICER WILLIAMS: Okay.

18          MR. WORL: I think that our comments  
19          regarding schedule are that number one, the  
20          Commission's experience with single staff  
21          assessments, Mr. Wheatland mentioned Russell City,  
22          but other attempts at doing things with a single  
23          document have not met with the same success,  
24          requiring numerous amendments and addendums. And  
25          in some instances, actually adding time to the

1 schedule, as opposed to expediting.

2 But more to the point, your point about  
3 the agencies, we do not know what the Bay Area Air  
4 Quality Management District has planned in terms  
5 of the two different phases. They've indicated to  
6 us that they want to issue a single document for  
7 both phases, and are looking at a more extensive  
8 analysis for phase two.

9 Now, I've heard some indication that  
10 Calpine's in discussions with the Bay Area Air  
11 Quality Management District regarding maybe  
12 dealing with phase one a little bit differently.  
13 But we don't have any indication of that, as yet.

14 Our concern is primarily in terms of  
15 providing staff enough time with those decisions  
16 that potentially impact the schedule. And, you  
17 know, we're not -- I guess you'd say we're not  
18 diametrically opposed to an expedited schedule,  
19 but at this point in time we don't really feel we  
20 have enough information to just say, sure, we can  
21 do that.

22 We would certainly move to, if we have  
23 the information and we have the response from the  
24 agencies, and if we continue the cooperative  
25 venture that we've embarked on with Calpine in

1 coming to terms on some of the other issues that  
2 have been identified, we don't see major  
3 impediments to moving very quickly through this  
4 process.

5 HEARING OFFICER WILLIAMS: Dick.

6 MR. RATLIFF: I would just reemphasize  
7 that frequently where we get bogged down in  
8 schedules it's because we're waiting for an Air  
9 District document. And we know that in this  
10 instance, in this case Calpine is trying to  
11 convince the District that a different BACT level  
12 is applicable.

13 And if that should slow down the Air  
14 District's production of a final determination of  
15 compliance, it can slow down the final product, as  
16 well. That frequently is a stumbling block for  
17 meeting any schedule. So it's one of the  
18 uncertainties we have to deal with about the  
19 schedule.

20 Another aspect I think is important is  
21 that we're really dealing with two licenses here.  
22 One is the relicensing of the existing facility,  
23 what we called phase one tonight. And the other  
24 is phase two, which is the combined cycle project.

25 The relicensing of the existing project

1 is, I suspect, foremost on Calpine's mind when it  
2 comes to schedule. And it may be possible, if we  
3 can think it through clearly, to reach a  
4 resolution of that application before we come to a  
5 final conclusion about the phase two license,  
6 which involves significantly more work than does  
7 the relicensing of the existing facility.

8 So, we may want to consider whether, you  
9 know, at some point going forward with hearings on  
10 phase one prior to going forward on hearings on  
11 phase two would make sense.

12 PRESIDING MEMBER KEESE: I would just  
13 comment that this is our first introduction to the  
14 suggested timelines and everything. But, it would  
15 be my expectation that we would show some  
16 flexibility in the schedule at this point.

17 This does seem -- your point is very  
18 well taken that there are two phases here, and it  
19 may be that we want to handle one on a more -- or  
20 can handle one on a more expedited basis than the  
21 other.

22 But we'd certainly like to keep our  
23 flexibility. As Mr. Williams knows, when it comes  
24 to the amount of time we're going to spend on our  
25 report, we intend to trim the time that is in the

1 standard schedule. I hope that nobody thinks that  
2 365 days just means we are going to take one year.  
3 To the extent that we can shorten that as we go  
4 on, we will. But, again, we're generally at the  
5 hands of other parties; and they have to deliver  
6 us the product so we can move forward.

7 I would think that we will mull over the  
8 schedule here and go as rapidly as we can at the  
9 front end. And we'll just see where we get.

10 Thank you.

11 MR. WHEATLAND: If I may just add, we  
12 have a high level of confidence in the dates that  
13 we proposed for the PDOC and the FDOC. It's based  
14 on our discussions with the Air District. And if  
15 you are to set dates for the delivery of these  
16 products, we'd encourage you to set an optimistic  
17 schedule.

18 PRESIDING MEMBER KEESE: Yes, and we'll  
19 be optimistic that the suggestion staff has is  
20 probably what they need to move forward in this,  
21 will be able to be furnished, also. There's a  
22 number of these issues that may be issues or may  
23 not be issues. And the more that are not issues  
24 as we go forward, the more expedited process, as  
25 you know, we will have.

1           Mr. Trevino send us a card. Mr. George  
2 Trevino, did you want to make a comment? He put  
3 his name in; I guess he wants to get information  
4 in the future. So, we'll file that one.

5           HEARING OFFICER WILLIAMS: One final  
6 item, and it's a very important item, because it's  
7 a threshold issue on the phase one. The Committee  
8 has identified it as a threshold issue.

9           And the way we're going to handle it is  
10 we're going to require briefing on this issue  
11 initially. And a briefing schedule will be  
12 forthcoming. Maybe with the scheduling order, or  
13 maybe before, but we'll see.

14           The issue is, and I'll give it to you  
15 now so you can start on it, and it certainly won't  
16 be a surprise. But, the threshold question is  
17 whether the project, once licensed under Public  
18 Resources Code 25552 may be recertified as a  
19 simple cycle facility to allow it to continue to  
20 operate in that manner.

21           As I said, I don't expect that parties  
22 are prepared to address the issue today, so that's  
23 why we're going to call for it in briefs.

24           Now, it's important to look at the  
25 original Los Esteros phase one project that was



1 licensed temporarily under PRC section 25552 in  
2 June 2002 for a three-year period, okay. And  
3 essentially what you're doing now is coming back  
4 to the Commission and saying, well, we want to  
5 relicense this facility permanently for the life  
6 of the -- the operating life of the project.

7 The threshold question is can you do  
8 that. I invite you to review appendix (e) of the  
9 Commission's Los Esteros decision, specifically  
10 the May 23, 2003 order re: PRC section 25552,  
11 where the Committee, at applicant's request,  
12 returned the project to the four-month process  
13 after the Committee had ordered it to be reviewed  
14 under the 12-month process.

15 So you specifically wanted the project  
16 in the four-month process. And I believe, if my  
17 recollection is correct, applicant -- excuse me,  
18 staff also joined in that motion.

19 I invite you to look at transcripts of  
20 the hearing of May 20, 2002, where the matter was  
21 argued. And the transcripts are online for the  
22 parties to review.

23 So, in essence, the license will expire  
24 under the three-year process unless you took  
25 certain action. And there was an agreement with

1 the Commission for you to do that, to take certain  
2 action. Well, that precondition hasn't occurred.  
3 So now you're asking for the Commission to  
4 recertify you as a permanent facility. And that's  
5 not what the agreement was.

6 So, I would also ask the parties to  
7 specifically address the question of estoppel or  
8 waiver as it relates to applicant's election to  
9 proceed under Public Resources Code section 25552,  
10 as opposed to the 12-month process set forth in  
11 Public Resources Code section 25540.6.

12 So, it's a very important threshold  
13 issue. Essentially there was a deal that you take  
14 certain action and that has not occurred. So now  
15 you're asking us to take alternative action, and  
16 we want to know what the authority is for the  
17 Commission to do that.

18 Am I clear?

19 MR. WHEATLAND: Yes, we understand.

20 HEARING OFFICER WILLIAMS: Okay. So we  
21 will be taking briefs on the issue. And I think  
22 that's the first thing that needs to be addressed.  
23 And certainly the schedule will depend on the  
24 answer, or the resolution to that question.

25 Okay?

1           So, with that, I think we can adjourn.

2           PRESIDING MEMBER KEESE: This meeting's  
3 adjourned. Thank you.

4           (Whereupon, at 9:16 p.m., the  
5 informational hearing was adjourned.)

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## CERTIFICATE OF REPORTER

I, JAMES RAMOS, an Electronic Reporter,  
do hereby certify that I am a disinterested person  
herein; that I recorded the foregoing California  
Energy Commission Informational Hearing; that it  
was thereafter transcribed into typewriting.

I further certify that I am not of  
counsel or attorney for any of the parties to said  
hearing, nor in any way interested in outcome of  
said hearing.

IN WITNESS WHEREOF, I have hereunto set  
my hand this 8th day of May, 2004.

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